

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

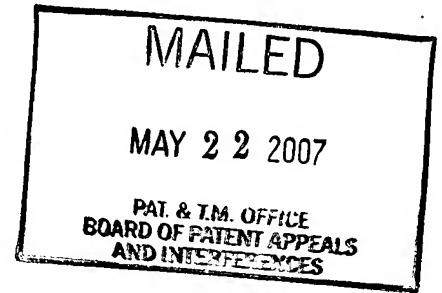
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Ex parte NIAN HUA OU  
AND DAVID RUSSELL WILLIS

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Application No. 10/071,376

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on March 1, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**APPEAL BRIEF**

On September 29, 2006, appellants filed an Appeal Brief. A review of the file reveals that claim 2 in the appendix of the Appeal Brief is not consistent as amended in the Amendment filed on October 14, 2005. The Appeal Brief Appendix of Claims (claim 2, page 11, line 13) reads:  
“...component is about 0.3 cm to about 1.3. However, the Amendment dated

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October 14, 2005 (claim 2, page 2 of 6, line 10), reads: "...component is about 0.3 cm to abou 1.3 cm. Appropriate correction required.

### **EXAMINER'S ANSWER**

On November 27, 2006, an Examiner's Answer was entered into the record. On page 4 of the Examiner's Answer, the examiner stated that "[c]laim 9 is rejected under 35 U.S.C. 103(a)...." However, a review of the record reveals that Appellant filed an Amendment on October 14, 2006, canceling claim 9. Clarification of the rejection and the record is required.

### **CONCLUSION**

Accordingly, it is

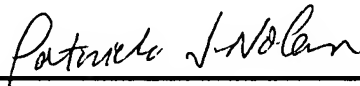
**ORDERED** that the application is returned to the Examiner:

- 1) to issue a form PTOL-90 to correct Claim 2, as identified above;

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- 2) for clarification of the status of Claim 9; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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